IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 14TH JUNE 2007 / 24TH JYAISHTA 1929

Crl.Rev.Pet.No. 306 of 2000()

CRA.122/1995 of SPL.COURT SPE/CBI-II & IV ADDL.SESSIONS COURT, ERNAKULAM DT.3.2.1995.
CC.232/1992 of JUDL.MAGISTRATE OF FIRST CLASS-I, MUVATTUPUZHA DT.27.5.1998.

.....

REVN. PETITIONER: APPELLANT/ 1ST ACCUSED

ALI @ KOTTALI, S/O.PAREETH,
PULLICHALIL VEEDU, PAYIPRA KARA,
MULAVOOR VILLAGE.

BY ADV. SRI.P.VIJAYA BHANU
SRI.S.R.MANOJ

RESPONDENT/ RESPONDENT/ COMPLAINANT

STATE OF KERALA, REP.BY
PUBLIC PROSECUTOR, HIGH
COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.C.M.KAMMAPU

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 14/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.R.P.NO.306 of 2000

DATED THIS THE 14TH JUNE 2007

ORDER

The revision petitioner, who is the first accused in C.C.No.232/1992 in the file of the Judicial First Class Magistrate Court, Muvattupuzha, stands convicted for the offence under Sections 457 and 380 read with Section 34 I.P.C. and sentenced to undergo rigorous imprisonment for two years each for the offence under Sections 457 and 380 IPC.

2. The prosecution case is that on 14-4-1991 at 11'O clock in the night the accused trespassed into the house of PW1 breaking three window bars and committed theft of two golden ear studs and two pieces of gold chain weighing 2.650 grams valued at Rs.990/-.

3. The evidence adduced in the matter consisted of the testimony of Pws.1 to 8, Exts.P1 to P6 and Mos.1 and 2. The F.I.S. was lodged on 16-4-1991. The first accused was arrested by the Circle Inspector of Police,PW7, on 23-1-1992 in

connection with another crime. The stolen ornaments were allegedly recovered from PW3, who purchased the same as per the confession statement of the accused. The report of the finger print expert and the alleged Section 27 recovery were discarded by the appellate court and rightly so. The evidence relied on by the appellate court is the identification of the ornaments by Pws.1 and 2, who are husband and wife and PW3, the person who purchased the ornaments from the accused. I think that the version of Pws.1, 2 and 3 stands unimpeached. There is no cross examination at all with respect to the version of Pws.1 and 2 and when questioned, PW3 has stated that he had purchased another gold chain also from the accused and that the same was also recovered by the police.

4. In the circumstances I find that the finding of the appellate court is well supported by proper reasons. There is no scope for interference. Conviction is confirmed.

All the same, considering the fact that the incident has taken place in 1992 and the accused is undergoing imprisonment with respect to other case. The sentence is modified to rigorous

imprisonment for six months each for the offence under Sections 457 and 380 IPC. The sentences shall run concurrently. He will be entitled for set off. The Crl.revision petition is disposed of accordingly.

K.R.UDAYABHANU, JUDGE

ks.

ORDER ON CRL.M.P.NO. 1849/2000 IN CRL.R.P.NO. 306 OF 2000

DISMISSED.

14-6-2007 SD/-K.R.UDAYABHANU, JUDGE

TRUE COPY

P.S.TO JUDGE

K.R.UDAYABHANU, J

CRL.R.P.NO.306 of 2000

ORDER

14-6-2007